

Unanimity and the Supreme Court: Anatomy of a Judicial Blowout

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*“The decision doesn’t have to be logical, it was unanimous.”
– Anonymous*

In 1954, the Supreme Court handed down perhaps the most influential decision of its storied history: Brown v. Board of Education. In facing a nation struggling with its racial identity, every student of the Court now realizes that the Court was dealing with a potential political and social powder keg. After much internal strife, the Court rendered a unanimous decision striking down school segregation and the long held practice of “separate but equal”, ushering in a new era of desegregation and racial integration supported by the full weight of the nation’s highest Court. While most cases lack the historical import of Brown, this landmark case brings into plain view the potential institutional and societal import of Supreme Court unanimity.

This paper will begin by considering the history of the Supreme Court as it relates to consensus amongst its justices through the lenses of the most dominant explanations of judicial decision making. Pulling from each orientation and its related literature, we will then derive a hybrid model that attempts to explain unanimous decision making at the Supreme Court level. Additionally, we will endeavor to create and test a predictive model that anticipates the presence or absence of unanimity. While a 5-4 and a 9-0 decision are legally equivalent, it is our contention that the Supreme Court version of the “blowout” has important judicial, political, and societal importance and is thus worthy of scholarly attention.

Given all of the discussion by judicial scholars on the subject of judicial decision-making and coalition building, it is ironic that during the first decade of the Supreme Court, the justices

followed the English practice of rendering seriatim opinions, where every justice delivered an opinion in each case. Chief Justice John Marshall was concerned that this method of rendering decisions was stunting the growth of the Court's prestige and legitimacy during its institutional infancy period, so he changed the process in order to promote unanimity within the Court (McCloskey 1964). To achieve this end, Marshall strongly discouraged dissenting opinions and was responsible for authoring the vast majority of the Court's opinions, even if he was not in agreement with the ruling, introducing into the Court a voting behavior centered on unanimity (Clayton and Gillman 1999).

Although the nation would suffer through debilitating periods of civil unrest, war, economic depression and political instability, the Supreme Court remained resolute in its desire to issue unified decisions. No justice of this period captured the rationale behind the norm of consensus better than Chief Justice William Howard Taft (1921-1930), who suppressed more than two hundred dissents, stating: "I don't approve of dissentings generally, for I think in many cases where I differ from the majority, it is more important to stand by the Court and give its judgment weight than merely to record my individual dissent where it is better to have the law certain than to have it settled either way" (Mason 1956:66, 223). It was well established that an unspoken norm of consensus was controlling the Supreme Court decision making for a large portion of the Court's first 150 years (Epstein, Segal and Spaeth 2001).

This story takes a dramatic turn, however, coinciding with the Supreme Court appointments made by President Franklin D. Roosevelt. During the early 1940s, the conventions of the Court radically changed, and the frequency of individual justices dissenting from the majority quickly rose to unprecedented levels. Prior to 1941, an average of 8.5 dissenting opinions were issued for every 100 majority opinions, but after 1941 that figure rose to an

average of 73 dissenting opinions per 100 opinions in subsequent terms (Walker, Epstein and Dixon 1988).

This radical departure from consensus not only represented a philosophical change in the way the Supreme Court viewed itself, but also in the way that scholars viewed the behavior of individual justices. Prior to this time, traditional approaches of decision making relied on the legal model of judicial behavior, the cornerstone of which is *stare decisis*, the norm that despite disagreement, previous decisions of the Court should be considered binding. The rallying cry of the emerging attitudinal model was that this notion was essentially hollow, as justices can almost always decide as they wish by distinguishing damaging cases or selecting from an assortment of precedent on either side. Comparing this view to the legal model, justices work backwards, making their decisions first, according to their individual preferences, and then justify that decision through text, history and precedent. Thus, “justices make decisions by considering the facts of the case in light of their ideological attitudes and values” (Segal and Spaeth 1993, 73).

The differences in how unanimity is portrayed in the legal and attitudinal models have previously been summed up: “Some scholars...have seen unanimous decisions as the product of relatively clear legal rules that override justices’ policy preferences...while others treat unanimity as a reflection of agreement based on policy preferences” (Baum 1997, 76). Thus, according to the attitudinalists, unanimity will occur only in the rare cases where either all of the justices are on the same side of the policy battle, or the case is not solidly tied to ideological concerns. While each camp rests on basic agreement as the sole source of unanimity, whether on legal or policy grounds, many unanimous decisions still present some form of disagreement (Spaeth 1989).

For example, consider once again the most famous unanimous decision in our nation's history, Brown v. Board of Education, introduced earlier. The unanimity reached in this case certainly was not a product of either legal consensus or ideological harmony. The case was originally heard under Chief Justice Vinson, but the internal conflicts within the Court were so severe that the case was held over for reargument, with Chief Justice Warren taking the center seat after Justice Vinson died. Obviously, the replacement of one Chief Justice for another would not magically solve the conflict; however, recognizing that a number of justices were expected to dissent, Chief Justice Warren "was quite firm on the Court's need for unanimity on a matter of this sensitivity" (Schwartz 1983, 84). In fact, Justice Reed had prepared a dissent and wavered on issuing it, but he ultimately recognized unanimity to be absolutely essential in this monumentally significant decision (Abraham 1992, 220). Following Brown, the Supreme Court rendered a string of unanimous decisions for the better part of twenty years in an attempt to promote and direct desegregation in the United States.

This account demonstrates at least the internal belief that a unanimous decision from the Supreme Court wields more power and authority than that of a split court. This idea of "9 speaking as 1" views the Court as a single institution, and legal scholars have not let an institutional approach to decision making go unstudied. Essentially, the institutional model takes the individual policy preferences espoused by the attitudinal model and places them within an institutional framework (O'Brien 1999). The Supreme Court is more than nine individuals; there are both internal and external institutional forces that constrain individual behavior in the hope of reaching some level of consensus (Halpern and Vines 1977). When taken to its extreme, unanimity is the product of the desire to achieve the maximum level of institutional

cohesiveness, not just as represented by the votes of the justices, but by the Supreme Court, as a whole, serving as the head of the judicial branch.

Institutionally, we see that historically consensus was largely seen as a function of Court norms and judicial behavior. Yet even with the advent of the modern court, we find that a 9-0 blowout carries with it the tacit understanding that the Court has spoken and it is undisputable. As such, unanimity functions in the modern era as an institutional watermark for the Court, signaling the finality of the decision as well as solidifying the notion of “nine as one.” To this extent, the modern court draws on the historical gravitas stemming from Chief Justice Marshall’s mandate of unanimity to buttress cases in the present. In short, a unanimous court harkens to the institutional legitimacy of Marshall and the founding, seeming to seal the decision with such a consideration in mind, putting the Court above assault. Having outlined the role unanimity played in the first 150 years of the Supreme Court’s history and introduced the various approaches scholars have used to explain its occurrence, we now shift our attention to the presence of unanimity in the modern Court.

(INSERT FIGURE 1 (VARIATION TABLE) ABOUT HERE)

When looking at the modern Court (from 1953 to 2003), we see that there is considerable variation in the data, with approximately a third of the votes over the past 50 years reflecting unanimity. Specifically, we note that 38.7% of the decisions issued by the Warren, Burger and Rehnquist courts are unanimous.¹ Given the high percentage of cases decided unanimously over time, we posit that unanimity in the Court is far from an artifact of history. Indeed, while a historical norm of consensus may not govern the decision-making antecedents for individual justices, there is a basis for suspecting that the Court is not adverse to institutional unanimity as

¹ We are employing the Spaeth database (2003), which we will expound more clearly upon in our data and methods section.

so aptly demonstrated by the justices in Brown. Categorically, over the 50 years, three Chief Justiceships, and over 12,000 cases reviewed, we find that the United States Supreme Court voted unanimously 4,830 times. While these numbers may not speak to any broad norms that encompass this entire period, there definitely appears to be a certain type of voting behavior associated with the Supreme Court. In other words, while the Court may not seek to adhere to some historical norm, they certainly do vote together.

(INSERT FIGURE 2, GRAPH 1 ABOUT HERE – Vote Count Frequency Table, Bar Graph)

As we can see over time, unanimity since the Warren years has ebbed and flowed, but always remained at a relatively high frequency. From 1953 to 2002, the Court has issued a substantial amount of unanimous decisions each term.

(INSERT GRAPH 2.1 ABOUT HERE – Unanimous Decision by term)

At the same time, however, the Rehnquist Court handled a reduced docket, so we instead chose to consider unanimity as a relative percent of the total decisions rendered. With this necessary control for docket size, we see considerable variation across the terms of the Court, yet credence is found in the notion that the Rehnquist Court brought about strong levels of consensus, even with the restrictions of docket size taken into account.

{INSERT GRAPH 2.2 ABOUT HERE – Percent of Unanimous Vote Count by Term}

Here we find it necessary to sever the sociological ties to the language so often espoused in understanding unanimity on the Supreme Court (Epstein, Segal and Spaeth 2001). Discussing Court behavior in nebulous terms as norms and sociological proclivities may be useful heuristics in understanding general themes of Court behavior, but gives us little leverage in understanding how the Court as an institution with nine separate actors arrives at decision-making. As such, we eschew usage of the term “norm” in favor of investigating the concrete reality of voting behavior. By investigating consensus as a form of voting behavior in a highly ritualized institutional setting, we gain more empirical leverage over understanding how the Court makes its decisions. More will be said on the nature of evaluating this topic as voting behavior, but it is first necessary to draw together the disparate theoretical elements of the judicial decision-making literature in order to cobble together a theoretical explanation for understanding and anticipating unanimous voting behavior on the Supreme Court.

As the attitudinal model contends, individual judges’ ideology or attitudinal disagreement with the majority produces dissent. Considering published opinions and votes provides valuable raw material for inferring judges’ attitudes which, in turn, can help explain judges’ voting behavior. As such, we find that justices act as rational policy activists, seeking to advance their political agenda on the Supreme Court (Segal and Spaeth 1996; Peterson 1981). This is to say that if the Court is composed of largely strategic policy-oriented actors, we should expect, in the aggregate, that issue areas as well as individual policy ideologies would affect such an orientation (Epstein and Knight 1997).² Accordingly, we then expect the diversity of issue area

² We realize this toes the boundaries of the ecological fallacy insofar as it conjectures about individual justices decision-making. However, we are of the understanding that even if justices are acting based on their policy goals at the individual level, such an orientation will manifest itself in overall voting behavior in localized policy areas. As

to largely influence unanimous decision making. As an attitudinal corollary, we further hypothesize that when the lower court adopts an ideological track and the Supreme Court supports a similar stance, we should again see an increase in unanimous voting behavior. We expect that when both the lower court and the Supreme Court adopt a liberal direction to their decisions, since liberal orientations on the Court tend to be more progressive and away from the common conception of the Court as neutral, we will expect higher levels of unanimity to accompany such decisions, throwing the institutional weight behind the liberal decision.

From the legalistic model, precedent and constitutionality are the bedrock for understanding why the Supreme Court decides as it does (Spriggs and Hansford 2001). To this end, we suggest that the Court will demonstrate higher levels of unanimity when it is avoiding changes to the legal precedent. If the case involves the overturning of legal precedent, there is an increased likelihood of dissent, as concluded by Ball (1978), after reviewing a series of cases in which the Supreme Court was considering the overturning of precedent and found that those who had supported the earlier decisions that were now being reviewed were more likely to dissent on the current case. As contemplated by legalists, precedent and the alteration thereof should weigh heavily in the Court's treatment of a case. We argue then that the Court will demonstrate more reticence to the alteration of precedent, thus demonstrating stronger patterns of unanimity when precedent is unchanged. Further, legalists argue for the development and maintenance of constitutional arguments and continuity (Brenner and Spaeth 1995). Much like precedent, we submit that if the Court will be more like to be unanimous when they are capable of avoiding declarations of constitutionality. To this extent, we expect that the Court will be more unanimous in these instances.

such, we argue we do not run afoul of the ecological fallacy as we are maintaining a chiefly and solely in the aggregate.

There is no escaping the fact that institutional constraints play an important role in evaluating dissent, and consideration of voting behavior of the U.S. Court of Appeals bears this out. Unanimity appears to be a driving force in most U.S. Court of Appeals decisions, with an overall dissent rate hovering around six percent on the typical three-judge bench (Atkins and Green, 1976). Much like at the Supreme Court level, judges are recognized as policy driven actors, yet institutionally constrained, only developing more frequent dissent and concurrence when taking into consideration constitutional issues or reversing a lower court's decision (Hettinger, Lindquist and Martinek 2003). Conversely, when a judge is elevated to the Supreme Court, her/his individual level of dissent or concurrence increases, with the judicial process thus becoming less consensual (Gerber and Park 1997). Unlike these studies, we are not so much focused on individual justice motives for dissent, but rather on an understanding of the collective voice of unanimity in the Supreme Court, partly as a function of individual actors operating within an institutional setting.

As such, a factor that has been discussed when considering unanimity is the nature and exercise of leadership provided by the Chief Justice. It has been noted that task and/or social leadership may have a significant effect on the operation of the Court. Part of the reason attributed to the explosion of dissent in the early 1940s was the inability of Chief Justice Stone to assume either social or task leadership, whereas other Chief Justices exhibited at least one or the other (Danelski 1980). Indeed, significant academic attention has been given to the effect that Chief Justice leadership has exhibited on unanimity (Wahlbeck, Spriggs and Maltzman 1999; Haynie 1992). As demonstrated above, there appears to be a noticeable increase in the amount of unanimous decisions in the Rehnquist Court. This could indicate a trend towards more unanimity on the Court per Chief Justice, which leads us to conjecture that we should expect to

see higher levels of unanimity in the Supreme Court during the Burger and Rehnquist tenures vis-à-vis the Warren Court.

Not all institutional pressures come from within, however. The executive branch, through the role of the solicitor-general, has a significant impact on Supreme Court decision making, whether through the submission of amicus curiae briefs or participation as a direct party to Court action (Segal 1988). While this preliminary examination into the solicitor-general's impact on Supreme Court unanimity does not take into account the ideological similarities or dissimilarities between the executive branch and the Supreme Court at any given time, we posit that the mere presence of the solicitor-general as an external force will place more pressure on the justices, making them less likely to reach a unanimous decision.

Also, coalition formation amongst justices affects dissent level. Rohde (1972) applied coalition theory to examine decisions within the context of individual policy goals and derived two propositions that may have use in understanding unanimity. He distinguishes between threat (when there is a strong likelihood of resistance to the Court's decision) situations and non-threat situations in an attempt to understand the difference in coalition building. While the evidence is mixed, especially when it involves unanimity, it is at least reasonable to postulate that in threat situations there will be a tendency for the opinion coalition to be larger than minimum winning size, in an attempt to maintain the standing of the court. For our purposes here, we do not have the external influences necessary to weigh the degree and intensity of threat facing the Supreme Court that would adequately gauge this variable, yet we can speculate that a related indicator would be the levels of consensus at the lower levels of the judicial process. While we find that most lower courts tend to provide more unanimous decision-making, we could expect that a case that provides dissent at the lower level speaks to the divisiveness of the case at bar. As such, we

postulate that when there is dissent in the lower court, the Supreme Court will be less likely to act unanimously, mirroring the behavior of their lower court brethren. Further, we speculate that the Court's reason for granting certiorari based on lower court conflict may respond in the converse fashion. It is possible that the Court takes on such contentious cases through their cert ability to resolve lower conflict through unanimous decision when they specifically pinpoint such conflict in cert.

Also, since the type of case being considered may have broad, sweeping effects on the presence or absence of dissent (Dorff and Brenner 1992). Not surprisingly, tougher cases produce more dissent. Historical support for this supposition rests in the period following the Judiciary Act of 1925, which granted the Supreme Court greater discretion in accepting cases, because increased dissent followed (Halpern and Vines, 1977). In addition to the type of case, sheer volume of cases can have an effect on dissent levels. It has been hypothesized that increases in caseload volume are associated with heightened levels of individual expression. The theory is based on the assumption that as demands on the Court increase, there is not sufficient time to build consensus beyond that which is necessary to arrive at a decision and move on to the next case (Walker, Epstein and Dixon 1988). Additionally, research also reveals that whether or not a case is given full treatment by the Court (i.e. orally argued signed opinions) tends to matter in how the Court will decide a case. (McGuire 1994). In other words, we speculate that we will see more unanimity in the Supreme Court when the case at bar is not rendered a full treatment (i.e. oral argument through to an opinion) to a case. As the court, for the most part, enjoys discretion in selecting its docket, the request for oral argument on a case should serve as a solid indicator that consensus is not likely to follow the oral argument.

Given this historical and theoretical framework, we now embark on an initial statistical investigation into the occurrence of unanimous voting on the Supreme Court. For purposes of this study, we have categorized unanimous decisions not just as 9-0 decisions, but those in which the vote count reflects no dissent. In general, we find this to be a fascinating and underappreciated institutional marker for Supreme Court decision-making with wide-reaching ramifications. As McCloskey (1964) hypothesized about the Court's behavior in the 1950's desegregation cases, a unanimous vote could mark an effort by a court to hem its ranks and appear institutionally strong. Additionally, unanimity provides insight into issue areas, Chief Justice leadership, precedent alteration, and other decision-making factors. In beginning this work, we suspect that a preliminary investigation using vote count as the dependent variable will provide a useful and meaningful heuristic for observing Supreme Court behavior.

Data and Methods

The Harold Spaeth dataset (2003) continues to be a font of reliable data for understanding the Supreme Court. While largely descriptive when analyzing and indexing Supreme Court cases, Spaeth's generous contribution to the field continues to provide the bedrock for quantitative analysis of the Court. This paper draws primarily from the Spaeth database as well as incorporating Segal's judicial ideology scores from Chief Justice Warren's appointment to the present, as well as solicitor general activity from 1954 to 1994.

In order to develop both an explanatory model for unanimous decision-making in the modern court as well as predictive model of when we can anticipate unanimity in the Supreme Court (a distinction that will be explained subsequently), we focused on the 12,004 decisions

handed down from the Supreme Court from 1953 to 2003.³ Given this large sample of cases, we find that there is a large 39.0% occurrence of unanimous decision-making, giving us an initial inclination that far from being dead, unanimity continues to exist in a large percentage in the modern era.

The Explanatory Model

One of the great difficulties in explaining Supreme Court voting behavior rotates around the proper use of variables. In order to investigate this phenomenon, we employ the use of separate logit models. We begin by defining our dependent variable as unanimous or nonunanimous votes, where we employ a 1 if it is a unanimous (a unanimous vote is considered anything to zero, i.e. a 9-0 vote, a 8-0 vote, etc.) and a zero if it was anything else (5-4, 6-3, 8-1, etc.) Additionally, in order to understand unanimous voting behavior on the Supreme Court, we have developed a synthesis of institutional, attitudinal, and legalistic variables necessary for understanding the complexion of a unanimous decision. We freely admit that the use of some variables as reasonable proxies for voting behavior is dubious at best due in large part to ignorance of the proclivities and personal influences swirling about in the cloak-and-dagger world of the Supreme Court chambers. However, we find that the variables hereto employed demonstrate the ability to capture a wide array of accessible institutional, legalistic, and ideological data available on the observable Supreme Court. As such, we have conjectured that Chief Justice leadership should function significantly, though we remain reserved on the direction of their individual leadership. Thus we have created a dummy variable for each Chief Justice, holding the Warren Court as our baseline for investigation.

³ For this project, we identified all decisions where there was a vote on the matter facing the Supreme Court. This avoids the unit of analysis question and drives directly at the nature of what constitutes voting behavior. The voting pattern of the Court, then, is not limited to strictly conscribed measures of cases and units of analysis, but all votes taken in a given term. Also, we lose close to 500 cases for analysis due to coding difficulties rotating about the certiorari variable.

Since we have hypothesized that the Court's avoidance of a full treatment of a case will increase their consensual ability, we develop a dichotomous variable for when the Court renders full treatment to a case, i.e. oral argument through to a final vote and opinion rendering against when they do not subject a case to such institutional strictures. We suspect that with an increased workload necessary to deliver such a full treatment that the court will be negatively affected by the necessity of such constraints, subsequently demonstrating the ability to reach consensus when workloads are considerably less.

Further, we suspect that the nature of certiorari will influence the nature of unanimity on the court. Given the highly selective nature of the Court's docket, the Court will grant cert to cases in which they feel the need to resolve conflict at the lower federal and state court level. The necessity of resolving such conflict as it is played out in the granting of certiorari lends us to hypothesize that the Court in pegging such cases for resolution will be more unified in their desire to provide a concrete solution. As such we have derived a dichotomous explanatory variable, where the reason for cert being granted is to resolve as lower court conflict as opposed to all other reasons.⁴

Four additional institutional variables are used to explore the nature of unanimous voting behavior on the Supreme Court. Staying within the neo-institutional vein, incorporating the legalist tradition of the adherence to precedent, we have conjectured that the Court will be more unified when it is seeking to avoid alteration of precedent. As such we have constructed a variable that allows for us to determine whether precedent in a given case is being altered or not. Additionally, we surmise that constitutionality of a given case and vote will also reflect on the ability to reach ultimate consensus. We suspect that the Court's ability to avoid a declaration of constitutionality will increase their ability to reach consensus. We code each case as whether or

⁴ We include in this survey of certiorari any situation where the reason for cert is unclear or unstated.

not there was a declaration of constitutionality or not, using a standard dichotomous coding scheme. Further, the presence of a lower court dissent (on a multiple panel judgeship) could influence the dissent levels on the Supreme Court outcome, demonstrating that if the case was divisive at the lower court, the subsequent Supreme Court decisions should echo such divisiveness across the institutional playing field. We employ the Spaeth coding of whether or not there was dissent in the lower court, utilizing their dichotomy of a 1 if there was dissent present or a zero if dissent was absent from the lower court vote. Our last institutional variable reflects on the nature of the Court's ultimate arbitration power. If the Court is less likely to be unanimous when they are overturning the entirety of lower court decisions, thus we expect levels of unanimity to shrink when faced with the notion of the necessity of reversing lower court action. We have coded each case in the dataset on the grounds of whether the case was a reversal or not and included it in the model.

Staying true to attitudinalist modeling proclivities, we have also included a variable in the explanatory model investigating the ideological direction of the Court's decisions, hypothesizing that more liberal decisions will carry with them a more unified court as such a move from a more conservative decision would need the necessity of a uniformed front. While each vote facing the Court does not array itself neatly on the traditional ideological scale, the Spaeth database ambitiously orients the Court's decisions according to the conservative-liberal scale as closely as possible.⁵ However, to develop a more evolved picture of the ideological directionality of the Court, we have incorporated an indicator of the direction of the lower court as well. As such, we have developed an interaction term, indicating whether or not the lower court's decision was

⁵ See the Spaeth database codebook (2003) for a more detailed orientation to how the liberal-conservative construction is developed.

liberal as well as if the subsequent Supreme Court decision was liberal or not as well; we find that this best captures the ideological directionality of cases according to the Spaeth database.

However, issue area certainly could produce a significant effect on the ability to derive a unanimous decision. Thus aside from the aforementioned and model developed above, we also develop separate models for pertinent issue areas such as criminal issues, civil rights, economic activity, federalism, and judicial power with each of the mentioned variables included (Epstein and Segal 2000). Given the salience of such issues, we posit individual models with the given variables above for each issue area, further developing the importance of issue area across institutional and ideological variables in the data.

The Predictive Model

The above model may serve us well insofar as explaining the roots and characteristics of unanimous decision-making on the highest court. However, many of the variables employed reflect on data that could not be known at the onset of a case facing the Court. Such a model, while useful in understanding the nature and behavior of the Court's voting behavior does not yield the same amount of leverage in its ability to *predict* unanimous behavior. Much like in the baseball world, one could derive a useful picture of the anatomy of a no-hitter, by looking at pitch counts, batter match-ups, and defensive assists (among many other intangibles), most of these variables could not be derived until after the no-hitter was pitched! So, too, with the Supreme Court. While we would like to know whether the Court would be altering precedent, reversing the lower courts, deciding liberally or not, or ruling on the constitutionality of an issue, these institutional and attitudinal variables simply cannot be known before the case at bar. As such, we ask if we can derive a model to explain unanimous behavior in the absence of such

variables. What follows is a tentative first step in the process of attempting to develop a workable model of vote prediction of uniformed court behavior, which is by no means exhaustive.

For the purposes of the predictive model, we restrict our dataset to the years of 1974 to 1994, yielding our number of total votes to 5831 with 2396 unanimous votes – supplying 41.1% of the population.⁶ Our predictive model takes on a more modest tone than our original model, yet a more nuanced argument is employed. We continue to rely on the dichotomous variable of whether or not the case was a unanimous vote or not, employing logit analysis. We reintroduce the institutional variables of whether or not there was a full treatment of the case variable (i.e. the presence of oral argument and voting) as well as the presence or absence of dissent on the lower court vote. Additionally, we fall back on the variable of whether cert was granted to resolve a federal or state court confusion or conflict issue or not. We inject an additional institutional variable into the model: the presence or absence of an amicus curiae brief from the solicitor general. As we have hypothesized, the presence of executive branch involvement may subject the court to institutional constraints that encourage the Court to hedge its bets and become more uniformed. We suspect that the presence of the executive branch in attempting to influence the Court will prompt the high bench to close their proverbial institutional ranks and act uniformly. These are all variables that can be known before a Supreme Court decision goes into a voting stage.

⁶ Since we are employing the Segal codification scheme for justice ideology, scant data is to be found that aptly codes the justice past 1955. However, since justices from the 1950s were still on the Court by the 1970s, it was difficult to interpolate such scores for the older justices that constituted natural courts (one of our independent variables). As such, we have used 1974 as our historical cut point due to the ideological data on justices according to the Segal database. Extending the data beyond that point would be a dubious enterprise and beyond the mandate of this project. Further, the Segal database information on the solicitor general only provides data until 1994, thus we have conscribed our endeavor to meet such limitations on the data.

The predictive model diverges from the explanatory model in its implementation of attitudinal variables. As we conjectured earlier, more liberal decisions should need the force of a unified court as such decisions move away from conservative, status quo judicial voting behavior especially with the conservative nature of the Court during the period of time in the identified sample. We suspect that judicial turnover and its corresponding changes in ideology on the Court will influence the Court, particularly if more liberal justices inhabit the bench. As such, we have averaged the ideological scores of each justice in a natural court, deriving a mean ideological value for each natural court in the sample, 14 natural court eras in all, ranging from the mid-Burger years to the entire Rehnquist court to date. Additionally, we took the ideological score for each Chief Justice and assigned each chief justice stewardship with the score. Such a variable allows us to see if the ideological direction of the leader of the Court influences the voting outcomes of the high court. Each of these ideological scores allows us to gauge the ideological tenor of the Court and investigate the influence of policy ideologies and their influence on voting behavior. We are not suggesting that ideologies supplant institutional considerations, but we suspect that such ideologies with a host of institutional variables in the model will influence the outcomes.

As such, we posit a logit model in its entirety first, followed by how the model operates give our five issue areas from the original explanatory model, again using logit analysis. Given the ideological and institutional conditions set before the justices retire to deliberate, we hope to establish a level of predictability for when the Court will act unanimously.

Results

The Explanatory Model

We find that both of our models performed well given the data limitations imposed upon it by studying the Supreme Court. The explanatory model performs ably in explaining reasons for why unanimity would harm the chances of unanimity as well as foster unanimous decision-making. The log likelihood ratio chi-square statistic yields us enough breathing room across the board in our full model as well as each model designated for individual issue areas to sufficiently accept the use of the models in understanding the elements of a unanimous decision.

{INSERT FIGURE 3.1 and FIGURE 3.2 ABOUT HERE}

Dissent in the lower courts proves to have a detrimental effect on arriving at a unanimous decision on the Supreme Court. While it could be that the Court would seek to smooth over and mollify any dissent that may have occurred at the lower level, the Supreme Court voting pattern mirrors the lower court pattern of dissent. It seems that cases that were divisive at the lower level are not transmuted into a unanimous front on the highest bench, since we observe an 8% decrease in unanimity when there is lower court dissent. This holds true across the issue areas where criminal procedure, civil rights, judicial power, economic activity, and federalism all demonstrate that when there is lower court dissent, there tends to be relative decreases in the ability to arrive at ultimate consensus.

We also speculated that other institutional variable, such as Chief Justiceship would also influence the unanimous outcomes. Since we pegged the Chief Justiceships of Burger and Rehnquist against that of Chief Justice Warren's tenure, we found that both Burger and Rehnquist's stewardship of the Court proved to have a positive effect towards creating unanimity

on the Supreme Court. While the Burger stewardship does not prove statistically significant in the overall model, we find that across issue areas, particularly in judicial power and economic activity, the Burger years tended to foster unanimity vis-à-vis his predecessor in Earl Warren. In economic activity cases, we find a 15% increase in unanimity when the case fell to Chief Justice Burger's court. In regards to judicial power, unanimity chances rose 6% in the Burger years. Perhaps surprisingly, consensus saw a 4.3% fall off when dealing with criminal procedure issues

In the Rehnquist Court, we find that in the model overall, the chief justice period as being conducive to promoting unanimity, which is largely echoed across the issue areas. When considering all of the Supreme Court cases in the overall model, we find that the presence of the Rehnquist stewardship drove the chances of unanimity up 5.2%. In cases that involved judicial power, we see a 22.91% increase in unanimity if the case came before the Rehnquist Court. Economic activity echoed such a percent change with unanimity becoming nearly 14% more likely.

While the presence or absence of different Chief Justices may lack the necessary variation insofar as there are only three chief justices in the last fifty year period, we are encouraged that the variation between the justices vis-à-vis the Warren Court years tends to produce an increase in unanimous behavior. While this may speak to their leadership abilities, personal ideologies, or institutional beliefs, we are encouraged by the percent changes witnessed under the stewardship of the various Supreme Court Chief Justices in regards to their ability to marshal unanimous decisions. While we observed earlier that there may be an ebb and flow even within Chief Justice stewardships, unanimity can still be explained when analyzing the courts of Burger and Rehnquist.

Both the legalist and attitudinalist model variables provide significant leverage in understanding when we should expect unanimity in the high bench ranks. For the legalist, precedent matters significantly in understanding Supreme Court behavior. Flowing from our model, we find that when there is no formal determinable alteration of precedent, the chances of unanimous behavior increases by 7.5%. This makes intuitive sense insofar as we would not expect the Court to be unanimous if it was overturning a well-established precedent and tend to be more unanimous when simply relying on what has come before. While this may not bear out when looking at a landmark *Brown* decision, according to our analysis of the data, when there is no formal alteration of precedent we are more likely to observe a more unanimous Court.⁷

Additionally, legalists rely heavily on the notion of constitutionality when understanding Court behavior. We find that there is strong support to the contention that when there is no ruling on constitutionality of a case, the Court will be more unanimous. Indeed, the Court demonstrates a 10% increase in unanimity when avoiding declarations on constitutionality. Perhaps most poignantly we see this borne out in the civil rights model, where chances for unanimity increase by 16.64% when the Court avoided ruling on the constitutionality. This finding seems to dovetail nicely with the previous legalist finding that the Court will serve to be more unanimous when it is not altering established precedent as well as when it can dodge declarations on the constitutionality of a case at bar. Also, with the reason for granting cert falling short of significance, we do not see signs of a Court aggressively seeking to quell conflict with a unanimous stamp of closure or finality.

⁷ This may be a threshold argument. While precedent may allow the Court to become more unified as a rallying point, so to speak, when they are overturning monumental precedent, it may take the unified Court to do so, like in *Brown*. This may speak to a threshold argument that when the precedent is assailed so vigorously or when the precedent has larger societal components, the Court may seek to be unanimous. This would be contrary to the large body of literature that poses the Court as relatively immune to public pressures and opinion.

In addition, institutionally, we find that when the Court avoids the full treatment rendered to a case, we were more likely to observe unanimity. This result functions across issue areas, rendering statistically significant coefficients, save for economic activity that falls short of statistical significance, but the correct directionality remains intact. If we observe the percent change for whether or not a case was denied full treatment or not, we find that there is a 7% increase in the likelihood of unanimous behavior occurring when the Court moves from away from a full treatment. This seems to support our hypothesis insofar as we expected to see unanimity hindered when the Court is forced to spend more time and effort on a case, which we drive at with the full treatment variable. While not the best of proxies for workload, investigating whether or not the Court dedicates a significant amount of attention to a case hurts the chances of them rendering a unanimous decision.

From these legal and institutional variables, we gain a picture of almost an evasive Court, using unanimity in its upkeep of legal status quo as well as maintaining a unified front in avoiding declarations on constitutionality and demonstrating patterns of unanimity when there has been less of a treatment rendered.

However, we do surmise that the Court will tend to be more unified when the lower court decision and the Supreme Court decision on a given vote is more liberal. Looking at the interaction term between liberal lower court decision and liberal Supreme Court decision, we find that such a confluence tends to drive up unanimity in the expected direction. As we hypothesized, liberal behavior by the Court would beget more uniformed voting, lending the institutional credence to more liberal directions taken by the Court. We see this prominently in economic activity cases and criminal procedure cases (as well as the expected directionality in civil rights cases, despite such cases' inability to reach statistical significance. We see that when

the Court is handling an economic issue case, when the lower court has decided liberally and when the Court decided in liberal fashion, the chances for unanimity increase by 8.9%. In criminal cases, we find this increase at 10.1%.⁸ Indeed, we see not only the import of issue areas, but also ideology functioning as attitudinalists suggest.

The Predictive Model

While the explanatory model does well in predicting what will hurt and what will foster unanimity on the Supreme Court, we lack the flux capacity to see into the future and nimbly and accurately predict such issues as constitutionality, alteration of precedent, and other such variables from the original model. As such, if a student were to ask how, given the limited amount of information we know about the Court and what would be presented to the Court, how the Court would subsequently angle towards unanimity, our predictive model takes a tentative first step in its attempt towards such a prediction. While the predictive model performed ably in its dissection of unanimous behavior, it is necessary to reassert the caveat that the model is neither exhaustive nor accountable to the “man behind the curtain” effect the clandestine Court holds over its observers. What the model successfully generates is some statistical inferences about the Court from a limited amount of data. We now turn our attention to the logit model results, enumerating the predictive model.

{INSERT FIGURE 4.1 and FIGURE 4.2 ABOUT HERE}

⁸ When looking at judicial power, we find that unanimity suffers when the lower courts and Supreme Court decide the case in liberal fashion. We posit that this can largely be seen as an artifact of the nature of the issue, speaking to the idiosyncratic nature of issue area. We would expect a more conservative tilt towards judicial power issues overall, expecting the Court to circle the proverbial wagons when it is their backyard, institutionally, speaking they are ruling upon. As such, a liberal lower court and a liberal Supreme Court decision may not aptly capture how the Court looks at judicial power cases.

Indeed, the full model handles the demand satisfactorily as well as each subsequent issue oriented model. Each log likelihood ratio chi-square test performs up to statistical significance, lending some credence to the applicability to the use of the model for its intended purpose.

In investigating the institutional variables in play when deciding a Supreme Court decision and since we can tell with relative ease whether a case was given a full treatment or not, we find similar results to that of the original explanatory model. When we remove all variables that we cannot possibly know before hand, we find that when the Court does not render a full treatment to a case, there is a higher likelihood that the court will be unanimous (we observe a 9.5% increase when the case is not given full treatment under the full model). We find that most pronouncedly in civil rights cases, when the Court does not render a full treatment, we are 33.7% more likely to arrive at unanimity.

Also, whether or not there is dissent on the lower court has an analogous effect to the original model when we are looking at the more predictive model. We find that when there is lower court dissent, the Supreme Court is less likely to be unanimous (we see a decrease of 8.63% change in the full model). In regards to civil rights cases we find that there is a 13.76% change, where the likelihood of reaching unanimity is hindered by such a case stimuli. Indeed, a majority of the issue areas in the above models tend to demonstrate that when there is dissent present at the lower court level, there tends to detract from the possibility of unanimity at the Supreme Court level.

Interestingly, we find that whether or not there was lower court confusion or conflict given for the reasons granting certiorari becomes statistically significant in our model drawn from what we can only know before a case is decided. Indeed, when there is conflict in the

lower courts tends to drive up the chances for unanimity in the model writ large by 4.44%.

When we get more issue specific, we find that there is a 9.44% uptick towards unanimity in criminal procedure cases when the Supreme Court identifies conflict at the lower court levels in granting cert. Further, in federalism cases, we find that there is a 23.67% increase in the chances of unanimity when the Court pegs lower court strife and conflict as necessary for granting cert.

Other institutional variable that we can peg before the justices retire to their conference is the presence or absence of the solicitor general *amicus curiae*. We speculated the presence of pressure from the executive branch would decrease the ability of the Court to arrive at a unanimous vote. In the predictive model, we find that largely to be the case with a 6.5% decrease in the ability to reach unanimity. In criminal procedure cases, we find this largely pronounced as well with a percentage change of -12.08%, indicating a downturn in unanimous support with the Court veering away from unanimous voting behavior.

The attitudinal variables employed demonstrate some of the more interesting findings. When the lower courts' rulings on cases are decidedly liberal, we find in the predictive model a hindering effect on unanimity. Hovering around a 3.52% decreasing effect in the general model, the effects are most pronounced in civil rights cases (18.13% decrease) as well as hovering around an 8% decrease in the likelihood of unanimous decision-making in both economic activity cases and judicial power cases.

However, we gain a more nuanced understanding of how ideology functions when investigating the ideology of the chief justice as well as the ideology of the natural court. As the chief justice's ideology shifts from more conservative to more liberal, we see an increase in unanimous decision-making. As we saw in the explanatory model, when the court tends to be more liberal in its decision-making, it errs on the side of increased unanimity. Additionally we

found that chief justice stewardship and leadership seems to matter in the original model, with both Burger and Rehnquist's chief justiceships influencing the model. We are not surprised to see that regardless of who the chief justice is in the past or could be in the future, as the Chief justice ideology moves from more conservative to more liberal on the spectrum, we see a 3.6% increase in the likelihood of unanimity. Indeed in criminal procedure cases, we find a 9.44% increase when the chief justiceship reflects a more liberal orientation.

Conclusion

Justice Antonin Scalia contends that the proliferation of concurrence and dissents “augment rather than diminish the prestige of the Court,” and to adhere to some antiqued norm would “deprive unanimity of the great force it can have when that force is most needed” (Scalia 1994). Indeed, we have found that unanimous decisions still carve a special place within the Court's voting behavior. We have spent this project investigating the circumstances when unanimous behavior can be observed as well as attempting to predict when the Court will produce such decision-making.

We have stated throughout the project that our indicators for understanding unanimity are by no means exhaustive. One of the most readily identifiable pitfalls comes from our lack of ability to see what goes on “behind the scenes.” While we can covet such things as the alteration of precedent as well as institutional indicators such as lower court dissent, it is incredibly difficult to identify and quantify the attitudinal and institutional variables at work when the conference doors. With such variables in our model like chief justice presence, finding the influences on chief justices and their ability to promote unanimity prevail in the models, we are still left without more in depth analysis on what drives chief justices to behave with certain

leadership qualities. While scholars have sought to develop the notion of what the process may resemble (Perry 1994), the clandestine world of the Supreme Court does not lend itself to easy investigation. If they do covet unanimity in certain cases, their need for institutional secrecy may be the trumping value.

That being said we do find a picture of a Court that uses unanimity as largely an institutional free pass, in a manner of speaking. We found that with regard to legalistic variables, the Court tends to be more unanimous when not altering precedent and avoiding the declaration of constitutionality. Further, the Court tends to shy away from unanimous decision-making when there is executive pressure in the form of amicus curiae briefs from the solicitor general as well as when the court will tend to produce more unanimous decisions when they do not have to go through the full treatment of a case. The confluence of these legalistic and institutional variables speak to a Court that uses unanimity when it seems less challenged, less willing to spend time on a given vote, and less ambitious about the precedential constitutional process. While some of these claims may seem brazen on the face, the results speak to a Court that uses unanimity not like it did in *Brown*, but more as institutional “get out of jail free card.” This is not to make light of the Court’s disposition, but speaks to the broader notion that the Court in absence of external pressures and the necessity of promoting momentous change, proves to be more inclined towards being more uniformed. Indeed, instead of wish to mollify lower court dissent, we find a Court more inclined to perpetrate the same patterns of dissent on its bench. While we are left wondering as to heroic quality of a *Brown v. Board*, the inescapable conclusion from this enterprise demonstrates a pattern of a institutional wagon-circling when there is less need than previously anticipated. Of course, this throws into question the nature of unanimous decision-making for both the casual and serious Court observer. We may speculate that the

casual observer will take the Court more seriously when they see that the Court unified behind a certain case, like a *Brown* or a *Cooper*, but for the serious Court scholar, we see a much more reserved Court, demonstrating patterns of unanimity when the stakes are low and with less to hazard institutionally. Admittedly, all of our variables employed through this study may not capture the full import or the heroic quality of unanimous decisions as it ripples through the lore of the Supreme Court, but from such a limited investigation based on the available data at hand, we are confident in such results.

We also readily acknowledge that additional research in this vein would be best suited to focus on facets of the interaction of some of these variables. We have tentatively offered some explanations for how ideology functions within the Court in the aggregate, however, our explanations lack external ideological factors that may go along with such variables as the solicitor general involvement. Additionally, the issue areas we have adopted may not include all of the nuance that we hoped to achieve. It would be interesting to see how these variables function across issue areas as well as defining in more precise terms the confluence of issue salience, public opinion, and judicial ideology. This offering serves best as a tentative first step rather than a definitive investigation of such interaction.

Hopefully by probing deeper into the nature of unanimity of the Supreme Court, we can define better when we can expect certain outcomes and behavior of the Court. At the end of the day, we find that it not one exclusive model of judicial decision-making which helps explain unanimous behavior, rather an inclusive model that borrows from each dominant strand to highlight the nature of certain institutional outcome. In this light, we find the research most useful in help laying such bedrock. As such we conclude that if Justice Frankfurter was correct in stating that “Compulsory unification of opinion achieves only the unanimity of the graveyard”

then we suspect the modern Court has and will continue to spend a third of its time in the cemetery with a host of institutional, legalistic, and attitudinal reasons for its funeral requiem.

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Appendix – Graphs and Figures

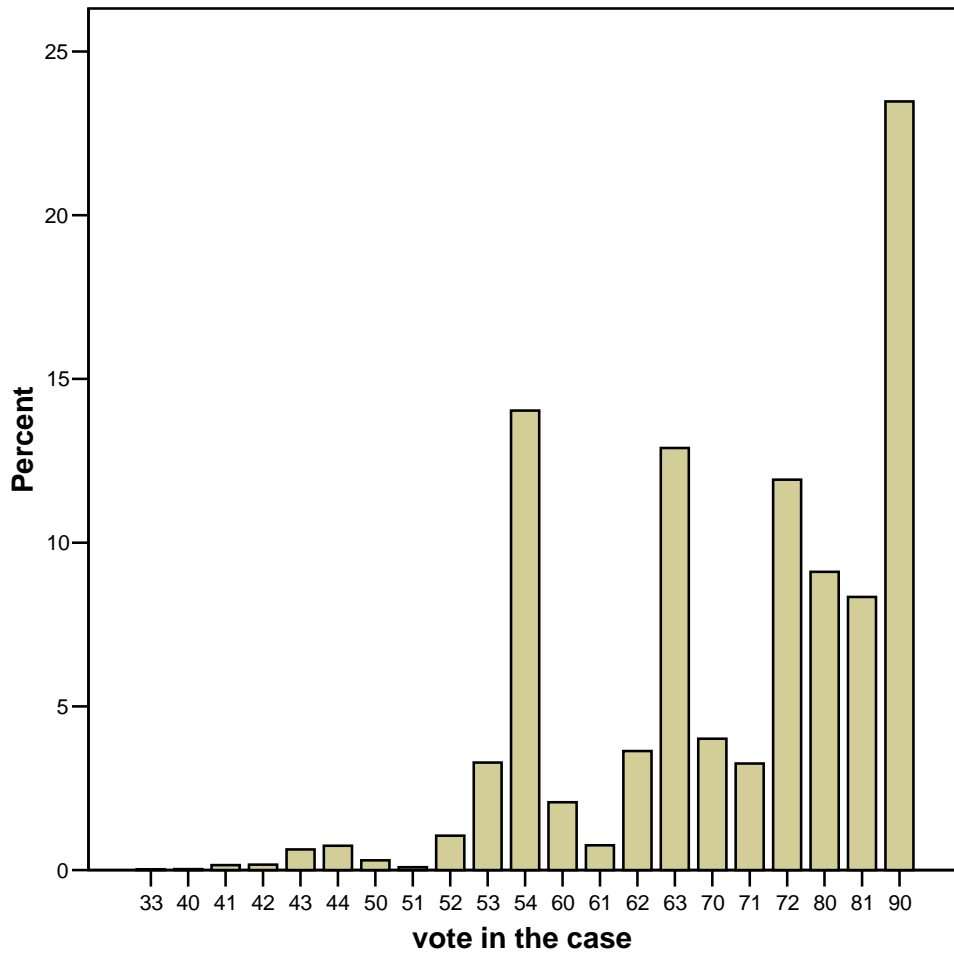
Figure 1 – Overview of Unanimous Decisions in the Supreme Court

	Frequency	Percent
Non-Unanimous Decisions	7665	61.3%
Unanimous Decisions	4830	38.7%
Total	12495	100%

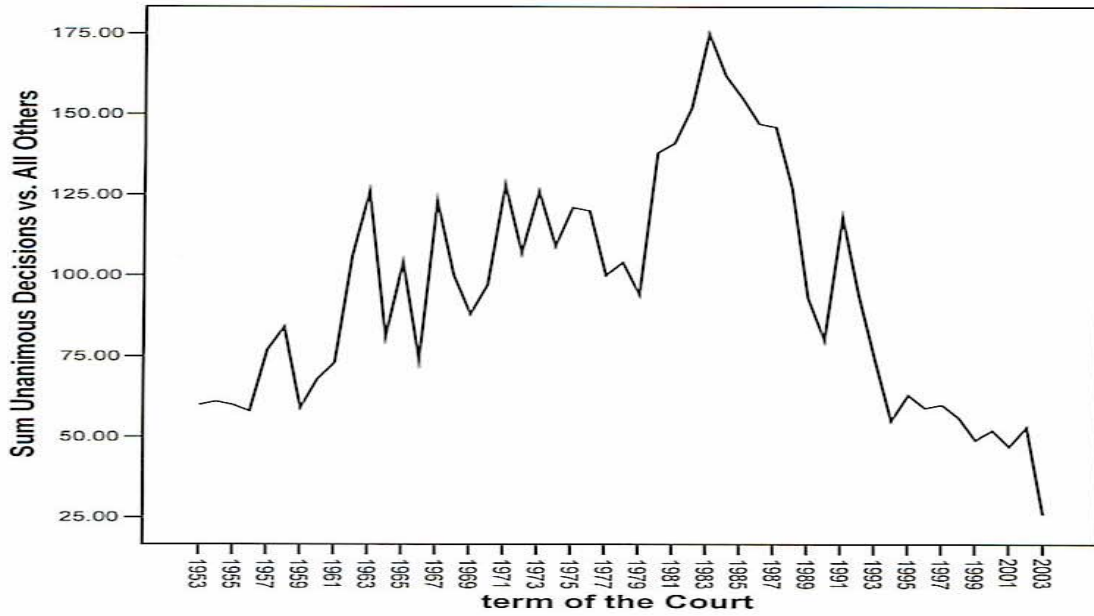
Figure 2 – Frequency Table and Bar Graph of Vote Total

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid 33	3	.0	.0	.0
40	4	.0	.0	.1
41	19	.2	.2	.2
42	21	.2	.2	.4
43	78	.6	.6	1.0
44	92	.7	.7	1.8
50	37	.3	.3	2.1
51	11	.1	.1	2.1
52	130	1.0	1.0	3.2
53	407	3.3	3.3	6.5
54	1738	13.9	14.0	20.5
60	257	2.1	2.1	22.6
61	94	.8	.8	23.4
62	450	3.6	3.6	27.0
63	1596	12.8	12.9	39.9
70	497	4.0	4.0	43.9
71	403	3.2	3.3	47.1
72	1476	11.8	11.9	59.1
80	1128	9.0	9.1	68.2
81	1033	8.3	8.3	76.5
90	2907	23.3	23.5	100.0
Total	12495	100.0		

Graph 1 – Vote Count Frequency Bar Graph



Graph 2.1 – Unanimous Votes by Term



Graph

Graph 2.2 – Percent of Unanimous Vote Count by Year

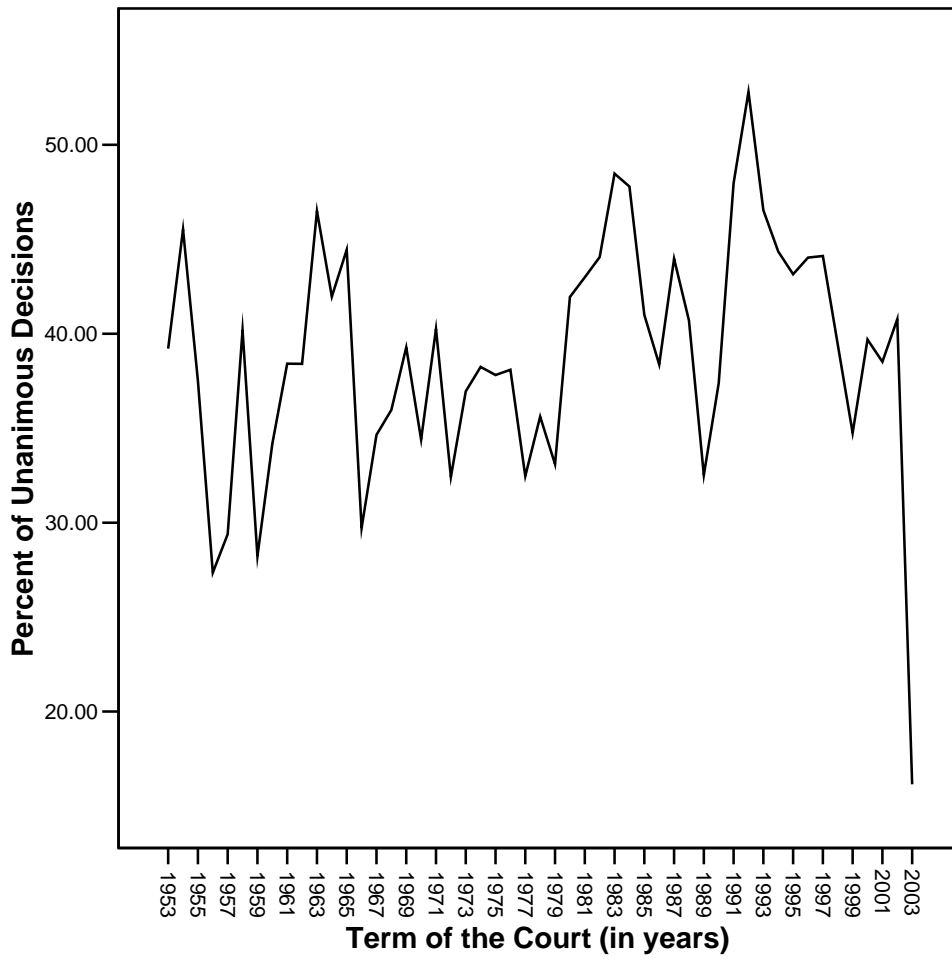


Figure 3.1 – Explanatory Logit Model for Unanimous Voting Behavior

	Full Model	Criminal Procedure	Civil Rights	Judicial Power	Economic Activity	Federalism
No Full treatment	0.31*** (.04)	0.22* (0.10)	0.83*** (0.10)	0.83*** (0.11)	0.15 (0.15)	1.09*** (0.32)
Burger Court	0.08 (0.05)	-0.21* (0.11)	0.07 (0.12)	0.26* (0.11)	0.60*** (0.11)	-0.07 (0.23)
Rehnquist Court	0.21*** (0.05)	-0.48*** (0.12)	0.22 (0.13)	0.97*** (0.14)	0.56*** (0.14)	-0.24 (0.25)
Reversal	-0.03 (0.05)	0.09 (0.12)	-0.20 (0.13)	-0.27 (0.12)	-0.23* (0.10)	0.05 (0.23)
Liberal Lower Court/Liberal S.Ct. Direction	0.23*** (.05)	0.46*** (0.16)	0.06 (0.13)	-0.45*** (0.15)	0.36*** (0.11)	-0.39 (0.25)
Reason for Cert	0.02 (0.06)	0.33* (0.14)	0.16 (0.16)	-0.09 (0.16)	-0.21 (0.14)	0.25 (0.29)
Lack of Unconstitutionality	0.44*** (0.08)	-0.07 (0.30)	0.73*** (0.16)	1.08 (0.60)	0.31 (0.25)	0.48 (0.30)
No Alteration of Precedent	0.33* (0.16)	0.22 (0.30)	-0.05 (0.40)	0.47 (0.46)	-0.24 (0.32)	2.36** (1.04)
Dissent on the Lower Court	-0.35*** (0.05)	-0.01 (0.12)	-0.42*** (0.12)	-0.34** (0.14)	-0.47*** (0.13)	0.55 (0.26)
Constant	-0.25*** (0.05)	-0.68*** (0.10)	0.31*** (0.12)	0.54*** (0.12)	-0.38* (0.16)	0.86** (0.33)
N	12004	2835	2129	1863	1955	516
Pseudo-R2	0.013	0.01	0.05	0.06	0.03	0.05
LR chi2	200.64**	31.75***	153.55***	164.12***	72.18***	37.64***

* - significant at the .05

** - significant at the .01 level

*** - significant at the .005 level

Figure 3.2 – Explanatory Model Percent Change Table from Minimum to Maximum Values

	Full Model	Criminal Procedures	Civil Rights	Judicial Power	Economic Activity	Federalism
Lack of Full Treatment	7.51%	4.41%	20.25%	20.00%	3.71%	26.63%
Burger Court	1.93%	-4.25%	1.60%	6.35%	14.77%	-1.79%
Rehnquist Court	5.15%	-9.25%	5.32%	22.91%	13.86%	-5.72%
Reversal	-0.76%	1.93%	-4.82%	-6.81%	-5.67%	1.16%
Liberal Lower Court/Liberal Supreme Court direction	5.66%	10.08%	1.58%	-11.24%	8.88%	-9.23%
Reason for Cert	0.46%	6.91%	4.04%	-2.36%	-5.19%	6.09%
Lack of Constitutionality Declaration	9.99%	-1.44%	16.64%	25.47%	7.47%	11.28%
Lack of Alteration of precedent	7.52%	4.13%	-1.11%	11.68%	-6.04%	37.32%
Dissent on the lower court	-8.04%	-0.22%	-10.03%	-8.37%	-11.25%	13.63%

Figure 4.1 – The Predictive Logit Model for Unanimous Supreme Court Behavior

	Full Model	Criminal Procedures	Civil Rights	Judicial Power	Economic Activity	Federalism
Lack of Full Treatment	0.39*** (0.06)	-0.04 (0.15)	1.41*** (0.17)	1.23*** (0.18)	0.28 (0.25)	1.49*** (0.52)
Natural Court Ideology	-1.60*** (0.31)	-2.43*** (0.76)	-2.10** (0.76)	-1.27 (0.85)	0.62 (0.84)	1.81 (1.42)
Chief Justice Ideology	1.07* (0.49)	3.86*** (1.14)	1.48 (1.28)	-3.99*** (1.34)	1.76 (1.41)	1.20 (2.40)
Reason For Certiorari	0.18* (0.08)	0.48** (0.19)	0.34 (0.20)	-0.11 (0.22)	-0.20 (0.18)	0.96** (0.39)
Dissent on the Lower Court	-0.37*** (0.07)	-0.13 (0.17)	-0.56*** (0.18)	-0.34* (0.20)	-0.60** (0.19)	0.81* (0.35)
Presence of the Solicitor General	-0.28*** (0.09)	-0.83** (0.28)	-0.19 (0.19)	0.05 (0.27)	-0.12 (0.18)	-0.07 (0.29)
Liberal Lower Court Direction	-0.15* (0.06)	0.35** (0.14)	-0.74*** (0.15)	-0.42** (0.15)	-0.60* (0.15)	0.08 (0.28)
Constant	0.57 (0.37)	1.36** (0.86)	1.98* (1.00)	-2.04** (1.00)	2.16 (1.07)	2.26 (1.89)
N	5748	1497	1057	881	818	255
Pseudo R2	0.02	0.03	0.15	0.10	0.02	0.06
LR chi2	152.25***	42.02***	222.38***	115.71***	27.77***	22.32***

* - significant at the .05 level
 ** - significant at the .01 level
 *** - significant at the .005 level

Figure 4.2 – The Predictive Model Percent Change from Minimum to Maximum values

	Full Model	Criminal Procedures	Civil Rights	Judicial Power	Economic Activity	Federalism
Lack of Full Treatment	9.45%	0.80%	33.70%	26.95%	6.95%	34.92%
Natural Court Ideology	-14.91%	-18.78%	-19.33%	-10.71%	5.82%	15.67%
Chief Justice Ideology	3.62%	9.39%	5.14%	-12.69%	6.15%	4.11%
Reason for Certiorari	4.44%	9.44%	8.46%	-2.63%	-4.89%	23.67%
Dissent on the Lower Court	-8.63%	-2.27%	-13.76%	-8.05%	-14.55%	20.05%
Presence of the Solicitor General	-6.50%	-12.08%	-4.67%	1.08%	-2.53%	-1.69%
Liberal Lower Court Direction	-3.52%	6.51%	-18.13%	-9.86%	-8.52%	-1.95%